

## **INVITATION FOR BID**

**IFB NUMBER:** 002-013  
**DATE OF THIS REQUEST:** March 29, 2002  
**DESCRIPTION:** Fiber Optic Cable Installation  
**BID OPENING DATE:** April 12, 2002 at 2:00 P.M.

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For technical information relating to this IFB, please contact:

Richard Heartley  
18 Court Street  
P.O. Drawer 341  
Warrenton, VA 20188  
540-347-1101  
Email: rmh@ci.warrenton.va.us

For other information relating to this IFB, please contact:

Purchasing Agent  
18 Court Street  
P.O. Drawer 341  
Warrenton, VA 20188  
540-347-1102

The Town of Warrenton is accepting quotes from qualified contractors to install fiber optic cabling. This requirement to connect local buildings with single-mode optical fiber will be initially utilized to implement data network connections at speeds up to Gigabit Ethernet, 1000BaseX standards. Future uses may include additional voice and video traffic. The quote will include providing specification for type of cable, coordination of appropriate permits and utility pole access, installation of aerial and underground segments, termination at specified locations and provision of satisfactory test results. The fiber segments will potentially connect the following locations:

1. New Warrenton Public Safety Building - 333 Carriage House Lane, Warrenton, VA 20186.
2. Fauquier County Sheriff's Office – 50 West Lee Street, Warrenton, VA 20186.
3. Town Hall Building 18 Court Street Warrenton, VA 20186.

## **Special Terms and Conditions**

The following Special Terms and Conditions shall govern this procurement:

- a) Unless otherwise specified in the contract, the contractor shall furnish all the necessary personnel, materials, equipment, services and facilities necessary to complete the description of work.
- b) The connection points have varying priority for the Town of Warrenton. Based on project costs, the Town may desire to implement the fiber segments in a phased approach.
- c) The project shall be complete within 30 (thirty) calendar days of contract award. Liquidated damages in the amount of 00.00 dollars per calendar day shall be assessed for failure to meet the completion date.
- d) All quotes are good for ninety (90) days from the date submitted.
- e) Unless all bids are canceled or rejected, the Town reserves the right granted by Section 11-53 of the Code of Virginia to negotiate with the lowest responsive, responsible bidder to obtain a contract price within the funds available to the Town whenever such low bid exceeds the Town's available funds. For the purpose of determining when such negotiations may take place, the term "available funds" shall mean those funds which were budgeted by the Town for this contract prior to the issuance of the written Invitation for Bid. Negotiations with the low bidder may include both modifications of the bid price and the Scope of Work/Specifications to be performed. The Town shall initiate such negotiations by written notice to the lowest responsive, responsible bidder that its bid exceeds the available funds and that the Town wishes to negotiate a lower contract price. The time, place, and manner of negotiating shall be agreed to by the Town and the lowest responsive, responsible bidder.

## **WORK STATEMENT**

There are two fiber (2) segments the Town has desire to implement, in varying priority. These 2 segments are:

Phase I - New Police Dept. Building to Fauquier County Sheriff's Office

## Option - Fauquier County Sheriff's Office to Town Hall

The following table provides address and distance information for each of the segments:

Segment	Address	Estimated Segment Distance
Phase I – Warrenton Public Safety Facility TO Fauquier County Sheriff's Office	333 Carriage House Lane  50 West Lee Street	1,800 linear feet, underground 1,400 linear feet, aerial
Option - Fauquier County Sheriff's Office TO Town Hall	50 West Lee Street  18 Court Street	950 linear feet, aerial

The description of these segments is as follows:

### **Phase I – Warrenton Public Safety Facility to Fauquier County Sheriff's Office**

The fiber will enter the New PD Building via currently installed underground conduit. This conduit is 4" in diameter, feeds to an internal building demarcation point and was installed as part of the current construction project. The fiber cable will connect to the Sheriff's Office at 50 West Lee Street by an underground run approximately 200 linear feet to East Shirley Avenue. The cable will run East on East Shirley Avenue via aerial segment on existing poles for approximately 1,400 linear feet. The fiber will then turn to run North on Keith Street via an underground segment of approximately 1,600 linear feet and will cross Keith street via (aerial or underground) connection to enter the Sheriff's Office building on the Lee Street side, via existing conduit / core drill at a point where current utilities enter the building. There is a need for a minimum of 4 strands (2 pair) of fiber connections to enter this building.

### **Option - Fauquier County Sheriff's Office to Town Hall**

The fiber run will continue on Lee Street past the Sheriff's Office for approximately 500 linear feet. There is an existing fiber cable from the Sheriff's Office to the current Town Police Department Building located at 32 Ashby Street. It is desired, if possible to use this existing cable and extend the service from a pole outside 32 Ashby Street to the Town Hall Building at 18 Court Street. This is a distance of approximately 450 linear feet.

## **SPECIFICATIONS**

The contractor will be responsible for identifying final specifications for the appropriate fiber cable, termination points and equipment, installation and testing. This includes hanging or direct bury of fiber cable segments. It is expected that the contractor will also be responsible for coordination of all permits and installation approvals necessary for aerial or underground installation.

It is anticipated that the Town will require installation of 12 pair Single-Mode 8-10 / 125um loose tube cable in both aerial and direct bury underground segments. Bids should include

pricing for 12 pair cable and 24 pair cable runs in the segments. The final cable selection should meet NEC and UL standards for riser rating allowing demarcation / termination at a point inside the identified buildings. The fiber should also have a jacketing system that is resistant to moisture, sunlight and flame.

The fiber cable shall have 12 strand (6 pairs) terminated inside the included buildings with "ST" connectors and in an appropriate fiber patch panel. The additional fiber strands will remain unterminated at the demarcation point. The customer will be responsible for premise wiring from the demarcation point.

The installed fiber must adhere to EIA/TIA standards for attenuation and bandwidth. The contractor is responsible for verification testing of each fiber strand to comply with the TIA-568 standard for optical fiber installations and shall produce a testing report for terminated strands. Each test report shall contain the following general information: Date of preparation, date of test, project name, Contractor name, media type, make, model, and serial number of test equipment used, date of last calibration and names of test crew. In addition, the optical fiber test reports shall also provide cable number, fiber count, individual fiber numbers, connector types, number of connectors/patches, calculated maximum link loss, length of run, measured link loss for each fiber.

## **BID DOCUMENTS**

1. All bids shall be place on the enclosed "Bid Form".
2. Any person submitting a bid for construction work to any building, highway, sewer or other structure, the performance of which would require a contractor's license pursuant to the provisions of Sec. 54.1-1100 of the Code of Virginia, 1950, as amended, be required to submit **as part of their bid**:
  - a. Satisfactory proof that such person is duly licensed under the terms of Sec. 54.1-1100 of the Code of Virginia, 1950, as amended, including the furnishing of any such contractor's number;
  - b. A written, sworn statement (notarized) that the person's license is in good standing and not subject to licensure as a contractor, subcontractor or owner/developer pursuant to Sec. 54.1-1100 of the Code of Virginia, 1950, as amended;

Form attached as Attachment A.

3. Town Purchasing Policies & Procedures, as adopted 9/13/2000, require that all bids in the amount of \$75,000 or greater shall be accompanied by a 5 (five) percent bid bond for the total bid as listed on the Bid Form. Bid bonds, if required, must be submitted as part of the bid.

## **SPECIFICATIONS**

The specifications and list of sites outlining the segments for the Town Fiber Project are included in the WORK STATEMENT section of this document.

## **GENERAL TERMS AND CONDITIONS**

The General Terms & Conditions - Construction Projects, attached as Attachment C, shall apply to this procurement.

## **INSURANCE REQUIREMENTS**

The contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the contractor, his agents, representatives, employees or subcontractors.

The contractor shall provide a certificate of insurance naming the Town of Warrenton as additional insured **and, if requested** a certified copy of said policy or endorsement(s) before commencement of contract. All insurance shall be placed with an insurer licensed to do business in the Commonwealth of Virginia. The underwriter shall be subject to the approval of the Town of Warrenton.

The contractor shall maintain limits no less than:

- a. Commercial General Liability: \$2,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage. The general aggregate limit shall apply separately to this project/location or the general aggregate shall be twice the required occurrence limit.
- b. Automobile Liability: \$2,000,000 combined single limit per accident for bodily injury and property damage.
- c. Workers' Compensation and Employers Liability: Worker's Compensation as required by the Code of the Commonwealth of Virginia and Employers Liability limits of \$1,000,000 per accident.

## **CONTRACTUAL REQUIREMENTS**

The successful bidder may be required to enter into a formal contract with the Town of Warrenton. The Town's standard contract format shall be used and is attached as Attachment B.

## **PAYMENT TERMS**

Terms are net, 30 days from the date of invoice. Date of invoice is defined as the date received by the Town of Warrenton or the date approved by the Town's Director of Public Works & Utilities, whichever is later.

## **LOCAL LICENCING REQUIREMENTS**

The successful bidder will be required to hold a valid Town of Warrenton Business Professional Trade, or Occupational License prior to commencement of work.

## **BONDING REQUIREMENTS**

Town Purchasing Policies & Procedures, as adopted 9/13/2000, require performance and payment bonds with a value of 100% of a contract amount of \$75,000 or greater. Performance and payment bonds, if required, must be submitted to the Town of Warrenton prior to award of the contract.

**ALL BIDS MUST BE SIGNED AND SEALED IN AN ENVELOPE PLAINLY MARKED ON THE OUTSIDE, "FIBER OPTIC CABLE INSTALLATION", AND SHALL BE FORWARDED TO THE PURCHASING AGENT.**

Bids shall be opened and read aloud by the Purchasing Director at the appointed hour and date in the presence of the Director of Public Works & Utilities, or his designee and such of the bidders or members of the public as choose to attend.

The Town reserves the right to reject any and all bids and waive all informalities. In the event the Town manager chooses to reject all bids, the Town will re-advertise or make the purchase on the open market. The Town, through its duly adopted policies, may reject any or all bids.

The Town of Warrenton does not discriminate on the basis of handicapped status in admission or access to its programs and activities. Accommodations will be made for handicapped persons upon prior requests.

## BID FORM

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Segment	Address	Linear Foot	Bid Per Linear Foot	Total Bid
Phase I – Warrenton Public Safety Facility TO Fauquier County Sheriff's Office	333 Carriage House Ln TO 50 West Lee Street	1,800 underground		
		1,400 aerial		
Option - Fauquier County Sheriff's Office TO Town Hall	50 West Lee Street TO 18 Court Street	950 aerial		
Total Bid				

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Signature	Date
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Printed Name	Title
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Company Name	Address
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City, State, Zip
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Telephone Number	Fax Number
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**Exhibit A**

**Mandatory Requirement**

(To be executed and submitted with bid)

Any person submitting a bid for construction work to any building, highway, sewer or other structure, the performance of which would require a contractor's license pursuant to the provisions of Sec. 54.1-1100 of the Code of Virginia, 1950, as amended, be required to submit **as part of their bid**:

Satisfactory proof that such person is duly licensed under the terms of Sec. 54.1-1100 of the Code of Virginia, 1950, as amended, including the furnishing of any such contractor's number. **A copy of your contractor's license can be attached to this form to meet this requirement.**

I certify that the \_\_\_\_\_ State Contractors License of

\_\_\_\_\_, doing business as

\_\_\_\_\_ is in

good standing and not subject to licensure as a contractor, subcontractor or owner/developer

pursuant to Sec. 54.1-1100 of the Code of Virginia, 1950, as amended.

Signed and sealed this \_\_\_\_\_ of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
Principal

\_\_\_\_\_  
Title

State of Virginia, County of \_\_\_\_\_, to wit:

The foregoing instrument was acknowledged before me the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_ by

\_\_\_\_\_.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
My Commission Expires:



## **EXHIBIT B**

### **TOWN OF WARRENTON AGREEMENT FOR THE FURNISHING OF MATERIALS AND/OR SERVICES**

**THIS AGREEMENT**, made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2001, by and between \_\_\_\_\_ of the first part (hereinafter referred to at times as "Contractor") and the Town of Warrenton, Virginia, A Virginia Municipal Corporation, party of the second part, (hereinafter referred to at times as "Town").

#### **W I T N E S S E T H :**

**WHEREAS**, pursuant to §2-197 et seq of the Code for the Town of Warrenton (adopted January 5, 1988) and §11-35 et seq of the Code of Virginia of 1950, as amended, the "Town" extended an invitation to bid for certain services to be rendered and materials furnished, all of which is more fully set out in the Proposal Sheet of the Town of Warrenton, a copy of which is attached hereto and incorporate herein by reference as Exhibit "A"; and

**WHEREAS**, in response to the described "invitation to bid", the Contractor, by his written proposal dated \_\_\_\_\_, did extend a bid for performing the described services and supplying the described materials; said written proposal which is incorporated herein by reference as Exhibit "B"; and

**WHEREAS**, pursuant to §2-205 of the Code for the Town of Warrenton (adopted January 5, 1988), the Town has determined the "Contractor" to be the lowest responsible bidder; and

**WHEREAS**, pursuant to §2-206 (a) of the Code for the Town of Warrenton (adopted January 5, 1988), the Town has determined the bid of the "Contractor" attached hereto as Exhibit "B" to be the lowest responsive bid; and

**WHEREAS**, the Town of Warrenton is of the opinion, and the Contractors, represent and covenant, that the Contractors are fully qualified and able to provide the services materials required of this contract, and that the Contractors have all registrations, certificates, licenses or permits, according to the law, rules or regulations of the United States Government, Commonwealth of Virginia, or any local jurisdiction, necessary to provide the services materials required of this contract in and for the Town of Warrenton, Virginia and are not currently debarred from submitting bids/proposals on contracts with the Town of Warrenton, nor are they an agent of any person or entity that is currently debarred from submitting bids/proposals on contracts with the Town of Warrenton; and

**WHEREAS**, the Town desires to award the contract for the furnishing of materials and services described in Exhibit "A" to the Contractor as the lowest responsive and responsible bidder pursuant to the terms and provisions of this contract; and

**WHEREAS**, the Contractors acknowledge and represent that the Town of Warrenton has made available to them, and they have inspected or examined, or have had the opportunity to inspect or examine the contents of all plans, documents, and specifications contained in this proposal and all other equipment, environment or items of any kind or nature which is necessary to fulfill their responsibilities under this contract, and in consideration of which, both of the parties hereto fully understand the terms, conditions, scope, and responsibilities concerning the providing of the services and materials of this contract.

**NOW THEREFORE**, in consideration of the mutual promises, covenants, agreements and understandings,

hereinafter contained, as well as in consideration of the sum of ONE DOLLAR (\$1.00) cash in hand paid by each of the parties hereto to the other, receipt whereof, at and before the signing and sealing of these presents, it is hereby acknowledged, the said parties do hereby covenant and agree as follows:

1) **PERFORMANCE:**

The Contractor agrees to perform all work and services required of him in a professional workmanlike manner as set out in the Invitation for Bid of the Town attached hereto as Exhibit "A". He agrees to comply all requirements of the specifications contained in the invitation for bids, the Town of Warrenton Public Facility Manual, and any other requirements and/or regulations of the Commonwealth of Virginia or the United States Government.

A) Contractor agrees to provide any payment or performance bonds required by the Code of the Town of Warrenton (Adopted January 5, 1988) (§2-213) and/or the Code of Virginia of 1950, as amended.

B) All plans, documentation, reports and or illustrations which may constitute the "Product" shall remain or become the sole property of the Town of Warrenton; including, the right to obtain exclusive license or copyrights on said products as applicable. Contractors hereby waive, assign, and/or release to the Town of Warrenton any claim they may have, whether by common law or statutory rights, pertaining to the ownership, use, reproduction, assignment, sale or transfer of the products produced from this contract or their rights to obtain copyrights and extensions, thereof and to prevent the infringement thereof or licenses for the exclusive ownership and control of the product. Contractor agrees to assign any rights and to cooperate with Town of Warrenton in connection with any suit or action threatened or instituted by or against the Town of Warrenton relating to the rights herein set out.

2) **FURNISHING OF MATERIALS AND WORK:**

The Contractor agrees to furnish all materials and perform all services and labor described in accordance with the plans and specifications attached to the Invitation to Bid of the Town. Any changes in the plans and specifications shall be in writing signed by both parties with a notation of the price of such changes.

3) **PAYMENTS TO CONTRACTOR:**

The Town agrees to pay the Contractor for said work and materials in the amount set out in the bid of the "Contractor" as attached hereto upon acceptance of the work by the TOWN unless set out differently within the described Invitation to Bid of the TOWN or as set out hereinafter:

4) **COMPLETION OF WORK:**

The Contractor agrees to commence work on or before \_\_\_\_\_, 2001. Thereafter, he agrees to complete the work according to the plans and specifications, and any agreed changes thereto, described in the Town "Invitation to Bid" in a timely manner, but no later than \_\_\_\_\_. At the completion of the work, the "Contractor" agrees to furnish to the Town a waiver of all Mechanics' and Materialmen's Liens, suitable in form and completeness to the Town.

A) The parties hereto may extend or modify these completion times by subsequent written agreement.

B) If contractors do not complete the work within the time limit(s) described herein, liquidated damages in the amount of \$\_\_\_\_\_ per calendar day will be assessed.

5) **CONDITIONS:**

This agreement is specifically conditioned upon the following:

- A) \_\_\_\_\_
- B) \_\_\_\_\_
- C) \_\_\_\_\_

**6) INSURANCE AND INDEMNIFICATION:**

A) The Contractor shall maintain such insurance with minimum coverage limits of \_\_\_\_\_ as will protect and indemnify the Town from claims under workmen's compensation acts and from claims for damages because of property damage or bodily injury, including death, which may arise from and during operations under this contract, whether such operations be by himself or by any subcontractor or anyone directly or indirectly employed by either of them.

B) The Contractor agrees to indemnify, defend and hold harmless, the Town of Warrenton, its officers, agents, and employees from any claims, damages and actions of any kind or nature, whether at law or in equity, arising from, or caused by, the use of any materials, goods, or equipment of any kind or nature furnished by the contractor; any services of any kind or nature furnished by the contractor, provided that such liability is not attributable to the sole negligence of the Town or the failure of the Town to use the materials, goods, or equipment in the manner already and permanently described by the contractor on the materials, goods, or equipment delivered.

**7) TERMINATION OF CONTRACT AND REMEDIES:**

A) This contract shall automatically terminate upon the contractor's loss of any license required to conduct its business in Virginia or to perform the services required by this contract.

B) The Town shall have the right, at its sole discretion, to terminate the contract in the occurrence of any of the following events:

i) If the Contractor shall default in the performance of his duties hereunder or in the completion of the work within the time specified, and the default shall not be corrected within ten (10) days after written notice by the Town to the Consultant/Contractor at its address set out herein, then and in that event.

ii) If the Contractor shall become insolvent and/or file a petition of bankruptcy.

C) No failure of the Town of Warrenton, in its sole discretion, to seek termination of this contract/or legal redress of any defaults by the Consultant/contractor, shall constitute a waiver of future default or right to exercise any and all legal rights described herein.

D) In the event of termination of this contract pursuant to its terms and provisions, the Town may seek such legal remedies as may be available to it, including:

i) Procuring such services from any other sources and hold the contractor for any resulting additional purchase and administrative costs.

ii) Suit for all damages for breach of this agreement, which the contractor agrees shall include, but not be limited to, administrative costs and reasonable attorney fees incurred.

**8) INTERESTS OF CONTRACTORS**

Contractors covenant and represent that they are aware of the provisions of the "Virginia State and Local Government Conflict of Interests Act" contained in §2.1-639.1 et seq of the Code of Virginia of 1950, as amended, and the "Ethics in Public Contracting" laws contained in §11-72 of the Code of Virginia of 1950, as amended, and §2-261 of the Code for the Town of Warrenton, as amended, pertaining prohibited conduct in regards to contracts by local government(s) and to which they specifically represent and covenants they are in compliance, including but not limited to:

A) That they have no interest or relationship, direct or indirect, to any member of the Town Council for the Town of Warrenton, employee or representative of the Town of Warrenton which would prohibit the award of this Contract or nor have they engaged in any conduct which would constitute prohibited conduct or a conflict of interest under the provisions of laws of the Commonwealth of

Virginia or the Town of Warrenton.

- B) Contractors covenant that they have not engaged in or participated directly or indirectly in any conduct prohibited by the provisions of §11-78 of the Code of Virginia of 1950, as amended, including, but not limited to, i) their having neither demanded, nor received from any other bidder/offeror, supplier, manufacturer, or subcontractor any kickback, payment, loan, subscription, advance, deposit of money, services or anything present or promised as an inducement for the award of their proposal, or any subcontract or order related to this contract; ii) that their proposal is made without collusion or fraud; iii) that they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan subscription, advance, deposit of money, services or loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised unless consideration of substantially equal or greater value was exchanged.

9) **NON-DISCRIMINATION**

A) The Contractors represents and certifies that they presently are, and will in the future, conform and comply with all provisions and requirements of law in all aspects pertaining to: the submission of the described bid as incorporated herein as Exhibit "B"; the negotiation and execution of this contract; the performance of all services required by this contract; the furnishing of all materials required by this contract; and all its intents including, but not limited to compliance with all applicable provisions of Federal, State and local law including, but not limited to:

- 1) the Federal Civil Rights Act of 1964 as amended;
- 2) the "Virginia Fair Employment Act of 1975, as amended," [§2.1-376.1, **et. seq.**, of the Code of Virginia of 1950, as amended];
- 3) the "Virginia Public Procurement Act" [§11-51 **et. seq.** of the Code of Virginia of 1950, as amended];
- 4) the "Americans with Disabilities Act of 1990 (ADA) [42 U.S.C. §12101, et seq., as amended];
- 5) any non-discrimination regulations or requirements of law as placed by the United States and/or Commonwealth of Virginia in the performance of this contract;.,

B) In complying with the provisions of law, the Contractor agrees as follows:

1) The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin, except where religion, sex or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor will not discriminate against any employee or applicant for employment with a disability capable to perform the essential functions of any job, with or without reasonable accommodations, as defined as qualified or otherwise provided by the American with Disabilities Act of 1990.

(i) The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

(ii) The contractor will include the provisions of A) above, in every subcontract or purchase order over Ten Thousand Dollars (\$10,000.00), in order that the provisions be binding upon each subcontractor or vendor.

2) The contractor in all solicitations or advertisements for employees placed by or on behalf of the contractor will state that such contractor is an equal opportunity employee.

(i) Notices, advertisements, and solicitations placed in accordance with federal law, rules or regulations, shall be deemed sufficient for the purpose of meeting the requirements of this section.

10) **ASSIGNMENT**

The obligations, and responsibilities of the Contractors under this Contract may not be assigned, either in whole or in part, without the written consent of the Town of Warrenton.

11) **GOVERNING LAW AND COURTS:**

This agreement shall be governed by the laws of the Commonwealth of Virginia. Any litigation with respect to this Contract shall be brought within the courts of the Commonwealth of Virginia. Additionally, both parties hereto acknowledge the Circuit Court of Fauquier County, Virginia to be the preferred venue for litigation on any issue pertaining to this agreement.

A) The Contractor shall comply with applicable federal, state, and local, laws and regulation.

B) The Contractor shall comply with all requirements of law of the Town of Warrenton, including, but not limited to those described and contained in the Code for the Town of Warrenton [Adopted January 5, 1988], and the Public Facilities Manual for the Town of Warrenton.

C) Any invalidation of any term or provision of this Agreement shall not modify, impair or otherwise affect the validity of the remainder of this Agreement, and the remainder of this Agreement shall continue in full force and effect as fully as though the invalidated term or provision were not a part hereof.

12) **BINDING EFFECT:**

All parties acknowledge that the binding effect of this agreement shall be specifically subject to full compliance with all applicable provisions and procedures concerning procurement of professional services contained in §11-37 **et. seq.** of the Code of Virginia of 1950, as amended, and §2-218 of the Code for the Town of Warrenton, as amended, and is subject to final approval through appeal procedures contained therein. In the event that this agreement is canceled due to any of the appeal procedure(s) contained in §11-37 **et. seq.** of the Code of Virginia of 1950, as amended, and §2-218 **et. seq.** of the Code for the Town of Warrenton, then in that event, this agreement will be deemed canceled without further obligation or claim on behalf of either party.

13) **ENTIRE AGREEMENT**

A) The proposal for \_\_\_\_\_ dated \_\_\_\_\_ submitted by the Contractors, where not in conflict with the provisions of this Contract, are incorporated herein and made a part hereof by reference as Exhibit "B". In the event of conflict with any provisions herein, the provisions of this contract will supersede and control. The following documents constitute the entire understanding of the parties:

i) The Town of Warrenton invitation to bid dated \_\_\_\_\_

ii) All plans and specifications in possession of the Town of Warrenton and/or referred to in this agreement or in the invitation to bid which were incorporated by reference.

iii) The proposal of the contractor dated \_\_\_\_\_.

These documents supersede any and all prior agreements, representations, or understandings between the parties. No representations or warranties other than those expressly herein set forth herein are of any force and effect.

i) No modification or waiver of any of the terms hereof, shall be valid unless in writing and signed by both of the parties. No waiver of any breach hereof or default hereunder shall be deemed a waiver of any subsequent breach or default of the

same or similar nature.

**WITNESS** the following signatures and seals effective the date hereinabove first written:

PARTY OF THE FIRST PART:

\_\_\_\_\_  
(CONTRACTOR) Date

\_\_\_\_\_  
(ADDRESS)

\_\_\_\_\_  
(TELEPHONE)

PARTY OF THE SECOND PART:

TOWN OF WARRENTON

By \_\_\_\_\_  
Town Manager Date

(190 BID-CONT.DOC - 4/30/92 ed.)

## **EXHIBIT C**

### **TOWN OF WARRENTON, VIRGINIA GENERAL TERMS AND CONDITIONS CONSTRUCTION PROJECTS**

The following General Terms and Conditions shall become part of all solicitations for construction projects that involve building, altering, repairing, improving or demolishing any structure, building or paving projects, and any draining, dredging, excavation, grading or similar work upon real property. These General Terms and Conditions shall be a part of any such Invitation for Bid/Request for proposal in addition to the General Terms and Conditions - Services.

#### **1. DEFINITIONS:**

- a. The term "**Town**" shall mean The Town of Warrenton through the governing body or other agent with authority to execute the contract for the Town.
- b. The term "**Contractor**" means the person, firm or corporation named such in the contract and includes the plural number and the feminine gender when such are named in the contract as the Contractor.
- c. The term "**Subcontractor**" means only those having a direct contract with the Contractor and it includes one who furnishes material worked to a special design but does not include one who merely furnishes material not so worked.
- d. The "**Project Inspector**" means one or more individuals employed or designated by the Town to make inspections, observe progress, approve schedules and accept services under the terms of the contract. The Town shall notify the Contractor in writing of the appointment of such Project Inspector.

#### **2. CONTRACT DOCUMENTS**

The contract entered into by the parties shall consist of the Invitation for Bids/Request for Proposals, the signed Bid/Offer submitted by the Contractor, the Town of Warrenton standard contract form or Purchase Order, the General and Special Terms and Conditions, the Specifications with drawings, if any, including all modifications thereof, all which shall be referred to collectively as the Contract Documents.

#### **3. LAWS AND REGULATIONS**

- a. The Contractor shall give all notices and comply with all laws, ordinances, rules, regulations, and lawful orders of any public authority bearing on the performance of the work.
- b. The Contractor and Subcontractor shall comply with the Virginia Contractor's Registration Law, Title 54, Chapter 7, Code of Virginia (1950), as amended. All nonresident Contractors and Subcontractors submitting bids/ proposals on the work described herein shall register with the Department of Labor and Industry under the provisions of the Subsection 40.1-30 of the code of Virginia (1950), as amended.

#### **4. CONDITIONS AT SITE, BUILDING OR STRUCTURE**

Bidders/Offerors shall visit the contract work site or sites and shall be responsible for having ascertained pertinent local conditions such as location, accessibility and general character of the site, building or structure, and the character and extent of existing work within or adjacent to the site.

#### **5. PREPARATION AND SUBMISSION OF BIDS/PROPOSALS**

- a. Bids/proposals must give the full business address of the bidder/ offeror and be signed by him or her with his or her usual signature. Bids/proposals by partnerships must furnish the full name of all partners and must be signed in the partnership name by one of the members of the partnership or any authorized representative, followed by the designation of the person signing. Bids/proposals by Corporations must be signed with the legal name of the corporation followed by the name of the State in which it is incorporated and by the signature and designation of the president, secretary or other person authorized to bind it in the matter. The name of each person signing shall also be typed or printed below the word "President", "Secretary", "Agent", or other designation without disclosing the principal, may be held to be the bid/proposal of the individual signing. When requested by the Town, satisfactory evidence of the authority of the officer signing in behalf of the corporation shall be furnished.
- b. Identification Of Bid/Proposal Envelope: The signed bid/proposal should be returned in a separate envelope or package sealed to the Director of Purchasing

and identified as follows:

From:

Name of Bidder

Due Date

Time

Address

City/State/Zip Code

Description of Invitation or Request for Proposal  
The envelope should be addressed as directed in the solicitation.

**6. WITHDRAWAL OR MODIFICATION OF BIDS/PROPOSALS PRIOR TO DUE DATE**

Bids/proposals may be withdrawn or modified by written or telegraphic notice received from Bidders/Offerors prior to the time fixed for bid/proposal receipt.

**7. RECEIPT AND OPENING OF BIDS/PROPOSALS**

- a. It is the responsibility of the bidder/offeror to assure that the bid/proposal is delivered to the place designated for receipt of bids/proposals prior to the time set for receipt of bids/proposals. No bid/proposal received after the time designated for receipt of bids/proposals will be considered.
- b. Bids received in response to an Invitation for Bids will be opened at the time and place stated in the solicitation and bidder's names and prices made public for the information of bidders and other interested who may be present either in person or by representative. The Purchasing Director, whose duty it is to open the bids, will decide when the specified time has arrived. No responsibility will be attached to any agent of the Town for the premature opening of a bid not properly addressed or identified. In the case of the proposals received in response to a Request for Proposal, public openings are not required; however, if a public opening is held, only the names of the offerors will be read aloud.

**8. WITHDRAWAL OF BID DUE TO ERROR (INVITATION FOR BIDS ONLY)**

- a. The bidder shall submit to the Purchasing Director his original work papers, document and materials used in the preparation of the bid within two business days after the date fixed for submission of bids. The work papers shall be delivered in person or by certified mail. The bidder shall identify in sufficient detail the nature of the mistake. Such mistake shall be proved only from the original work papers, documents and materials delivered as required herein.
- b. No bid may be withdrawn under this section when the result would be awarding the contract on another bid of the same bidder or of another bidder in which the ownership of the withdrawing bidder is more than five percent.
- c. If a bid is withdrawn under the authority of this section, the lowest remaining bid shall be deemed to be the low bid.
- d. No bidder who is permitted to withdraw a bid shall, for compensation, supply any material or labor to or perform any subcontract or other work agreement for the person or firm to whom the contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn bid was submitted.
- e. If the Town denies the withdrawal of a bid under the provisions of this section, it shall notify the bidder in writing stating the reasons for its decision and award the contract to such bidder at the bid price, provided such bidder is a responsive and responsible bidder.

**9. SUBCONTRACTS:**

- a. The Contractor shall, as soon as practicable after the signing of the contract, notify the Town in writing of the names of Subcontractors proposed for the principle parts of the work. The Contractor shall not employ any Subcontractor that is not responsible or otherwise suitable. The Town shall not direct the Contractor to contract with any particular Subcontractor, however, the Town may disapprove the use of any Subcontractor deemed unsuitable.
- b. The Contractor must agree that he is fully responsible to the Town for the acts and omissions of the Subcontractors and of persons either directly or indirectly employed by them as well as those persons directly employed by the Contractor himself.

**10. SEPARATE CONTRACTS:**

The Town reserves the right to let other contracts in connection with the project or services, the work under which will proceed simultaneously with the performance of the Contract. The



Contractor shall afford other separate contractors reasonable opportunity for the introduction and storage of their materials and the performance of their work. The Contractor shall take all reasonable action to coordinate his or her work with the separate contractors. If the work done by the separate contractor is defective or so performed as to prevent the Contractor from carrying out the work according to the plans and specifications, the contractor shall immediately notify the Town upon discovering such conditions.

**11. PROJECT INSPECTOR AS THE TOWN'S AGENT:**

- a. The Project Inspector shall use all powers under the Contract to enforce its faithful performance. The Project Inspector shall determine the amount, quality, acceptability, and fitness of all parts of the work; shall interpret the Contract Documents and extra work orders; and shall decide all other questions in connection with the work. The Project Inspector shall recommend suspension of the work whenever such suspension may be necessary to ensure the proper execution of the Contract. The Project Inspector shall have no authority to approve or order changes in the work which alter the concept or which call for an extension of time or a change in the contract price. Upon request, the Project Inspector shall confirm in writing within ten (10) days any oral order, direction, requirement or determination.
- b. All orders from the Town shall be transmitted through the Project Inspector.

**12. INSPECTION:**

- a. All materials and workmanship, if not otherwise designated by the specifications, shall be subject to inspection, examination and test by the Project Inspector at any and all times during manufacture and/or construction. The Project Inspector shall have authority to reject defective material and workmanship and require its correction. Rejected workmanship shall be satisfactorily corrected and rejected material shall be satisfactorily replaced with proper material without charge therefore, and the Contractor shall promptly segregate and remove the rejected material from the premises. If the contractor fails to proceed at once with replacement of rejected material and/or the correction of defective workmanship, the Town may, by contract or otherwise, replace such material and/or correct such workmanship charging the cost to the contractor. The Town may terminate the right of the Contractor to proceed as provided in the Default Clause, the Contractor being liable for any damage to the same extent as provided in the Default Clause for termination thereunder.
- b. The Project Inspector may recommend to the Town that the work be suspended when in his or her judgment the intent of the plans and specifications is not being followed. Any such suspension shall be continued only until the matter in question is settled to the satisfaction of the Town. The cost of any such work stoppage shall be borne by the Contractor unless it is later determined that no fault existed in the Contractor's work.
- c. The Project inspector may immediately suspend any work which is being pursued in an unsafe manner and where in his or her judgment, the potential for serious personal injury or property damage exists.
- d. The Project Inspector shall not:
  - 1. Authorize deviations from the Contract Documents;
  - 2. Enter into the area of responsibility of the Contractor's superintendent;
  - 3. Issue directions relative to any aspect of means, methods, techniques, sequences, or procedures;
  - 4. Issue a certificate for payment.

**13. SUPERINTENDENCE BY CONTRACTOR:**

- a. The Contractor shall be responsible for all means, methods, techniques, sequences and procedures and for coordinating all portions of the work under the Contract except where otherwise specified in the Contract Documents.
- b. The Contractor shall, at all times, enforce the strict discipline and good order among the workers on the project, and shall not employ on the site any unfit person or anyone not skilled in the work assigned to him or her.

**14. CONTRACTOR'S TITLE TO MATERIALS**

No materials or supplies for the work shall be purchased by the contractor or by any Subcontractor subject to any chattel mortgage or under a conditional sales or other agreement by which an interest is retained by the seller. The Contractor warrants that he has clear title to all materials and supplies for which he invoices for payment.

**15. WARRANTY OF MATERIALS AND WORKMANSHIP**

- a. The Contractor warrants that, unless otherwise specified, all materials and equipment incorporated in the work under the contract shall be new, first class, and in accordance with the Contract Documents and shall be performed by persons qualified in their respective trades.

- b. Work not conforming to these warranties shall be considered defective.
- c. This warranty of materials and workmanship is separate and independent from and in addition to any other guarantees in this Contract.

**16. USE OF PREMISES AND REMOVAL OF DEBRIS**

- a. The Contractor expressly undertakes, either directly or through its Subcontractor:
  - 1. To perform this Contract in such a manner as not to interrupt or interfere with the operation of any existing activity on the premises or at the location of the work;
  - 2. To store its apparatus, materials, supplies, and equipment in such an orderly fashion at the site of the work as will not unduly interfere with the progress of its work or the work of the Town or any other Contractor; and
  - 3. To place upon the work or any part thereof only such loads as are consistent with the safety of that portion of the work.
  - 4. To effect all cutting, filling or patching of its work required to make the same conform to the plans and specifications, and except with the consent of the Project Inspector, not to cut or otherwise alter the work of any other contractor. The Contractor shall not damage or endanger any portion of the work by cutting, patching or otherwise altering any work, or by excavation.
  - 5. To clean up frequently all refuse, rubbish, scrap, materials and debris caused by its operations, to the end that at all times the site of the work shall present a neat, orderly and workmanlike appearance.

**17. PROTECTION OF PERSONS AND PROPERTY**

- a. The Contractor expressly undertakes, both directly and through its Subcontractors, to take every precaution at all times for the protection of persons and property, including the Town's employees and property and its own.
- b. The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the work.
- c. The Contractor shall continuously maintain adequate protection of all work from damage and shall protect the Town's property from injury or loss arising in connection with this contract. The Contractor shall make good any such damage, injury, or loss, except such as may be directly due to errors in the Contract Documents or caused by agents or employees of the Town. The Contractor shall adequately protect the adjacent property as provided by law and the Contract Documents, and shall provide and maintain all passageways, guard fences, lights and other facilities for protection required by public authority, local conditions, or any of the Contract Documents.
- d. In an emergency affecting the safety or life of individuals, or of the work, or of adjoining property, the Contractor, without special instruction or authorization from the Town, is hereby permitted to act at its discretion, to prevent such threatened loss or injury. Also, should the Contractor in order to prevent threatened loss or injury, be instructed or authorized to act by the Town, he shall so act, without appeal. Any additional compensation or extension of time claimed by the Contractor on account of any emergency work shall be determined as provided by Section 18, "Changes in the Work."

**18. CHANGES IN THE WORK**

- a. The Town may at any time by written order, make changes in the work of this Contract and within the general scope thereof, except that no fixed price contract may be increased by more than twenty-five percent of the amount of the contract or ten thousand dollars (\$10,000), whichever is greater. In making any change, the charge or credit for the change shall be determined by one of the following methods as selected by the Town.
  - 1. The change order shall stipulate the mutually agreed price that shall be added to or deducted from the contract price. If the price change is an addition to the contract price, it shall include the Contractor's overhead and profit.
  - 2. By estimating the number of unit quantities of each part of the work which are changed and then multiplying the estimated number by of such unit quantities by the applicable unit price (if any) set forth in the contract or other mutually agreed unit price. If the Town decides to authorize work in accordance with until price, measurement of unit quantities shall be on a net basis.
  - 3. By ordering the Contractor to proceed with the work and to keep, and present in such form as the Town may direct, a correct account of the cost of the change together with all vouchers therefore. The cost shall include an allowance for overhead and profit to be mutually agreed upon by the Town and the Contractor.
- b. The Contractor shall furnish the Town with an itemized breakdown of the quantities and prices used in computing the value of any change that might be ordered.
- c. In figuring changes, instructions for measurements of quantities set forth in the specifications shall be followed.

- d. All change orders must indicate that the completion date of the project is either not extended or is extended by a specific number of days. Both the old, and if there is one, the new date must be stated.

**19. CONTRACTOR'S RIGHT TO STOP WORK OR TERMINATE CONTRACT**

If the work should be stopped under any order of any court or other public authority for a period of three (3) months through no fault of the Contractor or of anyone employed by the Contractor, or if the Town should arbitrarily fail to issue any certificate for payment within a reasonable time after they are due, or if the Town should fail to pay the Contractor within thirty (30) days any sum certified by the Town, then the Contractor may, upon fourteen (14) calendar days written notice to the Town, stop work or terminate the contract. The Contractor may then recover the Town payment for the cost of the work actually performed, together with the overhead and profit thereon, but profit shall be recovered only to the extent that the contractor can demonstrate that there would have been a profit on the entire contract if the work had been completed. The Contractor may not receive profit or any other type of compensation for parts of the work that were not performed. The Contractor may recover the cost of physically closing down the job site, but no other costs of termination. The Town may offset any claims it may have against the Contractor against the amounts due to the Contractor.

**20. TOWN'S RIGHT TO TERMINATE CONTRACT**

- a. If the Contractor should be adjudged bankrupt, or if he or she should make a general assignment for the benefit of his creditors, or if a receiver should be appointed on account of his or her insolvency, the Town may terminate the Contract. If the Contractor should persistently or repeatedly refuse or should fail, except in cases for which extension of time is provided, to supply enough properly skilled workers or proper materials, or if he should fail to make prompt payment to Subcontractors or for material or labor, or persistently disregards laws, ordinances or the instructions of the Town, or otherwise be in substantial violation of any provision of the contract, then the Town may terminate the contract.
- b. Prior to the termination of the Contract, the Town shall give the Contractor fourteen (14) calendar days written notice. Upon termination of the contract, the Town shall take possession of the premises and of all materials, tools and appliances thereon and finish the work by whatever method deemed expedient. In such case the Contractor shall not be entitled to receive any further payment. If the expense of finishing the work, including compensation for additional managerial and administrative services, shall exceed the unpaid balance of the contract price, the Contractor shall pay the difference to the Town. The expense incurred by the Town as herein provided, and the damage incurred through the Contractor's default, shall be certified by the Town.
- c. Termination of the Contract under this section is without prejudice to any other right or remedy of the Town.

**1) NOTICE OF REQUIRED DISABILITY LEGISLATION COMPLIANCE**

The Town of Warrenton is required to comply with state and federal disability legislation: The Rehabilitation Act of 1993 Section 504, The Americans with Disabilities Act (ADA) for 1990 Title II and the Virginians with Disability Act of 1990.

Specifically, the Town of Warrenton, may not, through its contractual and/or financial arrangements, directly or indirectly avoid compliance with Title II of the Americans with Disabilities Act, Public Law 101-336, which prohibits discrimination by public entities on the basis of disability. Subtitle A protects qualified individuals with disability from discrimination on the basis of disability in the services, programs, or activities of all State and local governments. It extends the prohibition of discrimination in federally assisted programs established by the Rehabilitation Act of 1973 Section 504 to all activities of State and local governments, including those that do not receive Federal financial assistance, and incorporates specific prohibitions of discrimination on the basis of disability in Titles I, III, and V of the Americans with Disabilities Act. The Virginians with Disabilities Act of 1990 follows the Rehabilitation Act of 1973 Section 504.